Pages.

The Poor Old Tribune

TRIBUNE'S

CIRCULATION

Verdict in the "Sharp Case" Set Aside by Judge Walter H. Sanborn in United States Circuit Court of Appeals.

#### SHERMAN ANTI-TRUST ACT WAS NOT VIOLATED

Coal Company Not Prohibited Gifford Pinchot Declared Not to From Selecting Its Customers, From Refusing to Sell Product or Fixing Prices.

#### OPINION AS HANDED DOWN POLICY OF THE SECRETARY

St. Paul, Minn., Nov. 19 .- Judge Walter H. Sanborn in the United the verdict and ordering a new trial partment. M. Moore and Everett Buckingham, facts."

and that the railways refused to haul the commodity because he advertised and sold coal at a less figure than his competitors.

Judge Sanborn in his opinion, holds that there was no substantial evidence of any combination between any two of the defendants, either to refuse to sell coal to Sharp, or to refuse to sell coal to Sharp, or to refuse to transport it for him.

The lower court found the defendants guilty of violation of the Sherman antitrust law and imposed a fine of \$1,000 and costs on Buckingham and \$3,000 and costs on the other defendants.

Text of the Opinion.

The opinion of the circuit court of application of the court of application of the circuit court of application of the circuit court of application of the circuit court of application of the court of application of the circuit court of application of the court of the court of a

The opinion of the circuit court of appeals is contained in the syllabus as follows:

"The test of an unlawful combination under the act of July 2, 1890, is its necessary effect upon free competition in commerce among the states or with foreign

"A combination, the necessity of which is to stifle, or directly and substantially to restrict, such competition, is unlawful under that act, but if the necessary effect of a combination is but incidentally and indirectly to restrict competition while its chief result is to foster the trade

make and operate it, it does not fall under the ban of this law. "A coal company engaged in mining and selling its coal is not prohibited by the anti-trust act, or by the law, from refusing to sell its coal, from selecting its cus-tomers, from fixing the price and terms on which it will sell its product, or from elling to different persons and on dif-

## Stockholders Not Liable.

"A violation of a law by a corporation does not render its non-participating stockholders criminally liable therefor.

"Unless there is substituted and the dollar was to divide if up among the big corporations and let the people who know how to make money cut of it." Mr. Ballinger replied: "Unless there is substantial evidence of facts which exclude every other hypothesis but that of guilt, it is the duty of the trial court to instruct the jury to return a verdict for the accused.

"And where all the substantial evidence is as consistent with innocence as with guilt, it is the duty of the appellate court to reverse a judgment of conviction."

In conclusion the court says:

"There was no substantial evidence of any combination between any two of the defendants, either to refuse to sell coal to Sharp or to refuse to transport it for

to Sharp or to refuse to transport it for combination between a corporation

and its officers or agents, in violation of the anti-trust act cannot be formed by the thoughts or acts of the officer or agent alone without the conscious participation in it of any other officer or agent of the corporation

"The union of two or more persons, the conscious participation of two or more minds, is indispensable to an unlawful

service here.

OFF COMES THE HEADS OF 73

MEN UNDER COLLECTOR LO

Number-Investigation Being

Continued.

announced the removal from the customs service of seventy-three em-

ployes and attaches of the weighing and other divisions of the customs

New York, Nov. 19 .- Collector of the Port William Loeb, jr., today

Secretary of the Interior Ballinger Denounces a Recently Published Magazine Yarn and Replies to Other Charges

#### CONTROVERSY OVER THE COAL LANDS IN ALASKA

Be Author of Anti-Trust Clause in the Act Passed by Congress on May 28, 1908.

Washington, Nev. 19.-Replying to charges made in a magazine, Secretary Ballinger of the interior department to-States circuit court of appeals today day denied many reports recently circuhanded down an opinion setting aside lated concerning the conduct of his de-"To say that I ever have advised, orin the case of the United States dered or lent support to any effort to peragainst the Union Pacific Coal com- petuate a fraud upon the government, pany, the Union Pacific railway, he said, "is not only false, but is intenthe Oregon Short Line railway, James to the trouble to inquire into the

in which they are charged with vio- In explanation of the charges in conlating the Sherman anti-trust law by forming an unlawful combination.

While the suit was brought in the name of the United States, proceedings were started by a Salt Lake City coal dealer named Sharp, who charged the coal company and the defendant railways with refusing to sell and haul coal for him. Sharp charged that the Union Pacific Coal company refused to sell him coal, and that the railways refused to haul the commodity because he advertised and sold.

Pinchot Not the Alaska coal lands, he went into history of President Rooseveit's withdrawal from entry of all coal lands in Alaska in 1906, showing that the order was so modified by Secretary Garfield as to validate all applications made prior to May 16, 1907. He then called attention to the fact that, in his annual report of 1907 as commissioner of the general land office, he had recommended action of combinations or trusts by claimants of coal lands and adds: nection with the Alaska coal lands, he

ity or invalidity, have been vigorously

dinary falsification" a report that he is interested in 155,000 shares of the Alaska Petroleum & Coal company.

#### No Basis, in Fact. "The statement that I or my former firm was attorney for this company or ever advised or cosmiciled in its effort to acquire title to public lands is also without basis in fact, 'he added.

without basis in fact, 'he added.

Mr. Ballinger said it was true that, in his private practice after he had resigned as commissioner of the lar office, he had been consulted in the preparation of articles of incorporation under the law of 1908, which had been approved by the President and which permitted the entry of as much as 2,560 deres of coal land, but not true that either in this or 'n any other connection he had given any advice looking to a fraudulent act against the looking to a fraudulent act against the

government,
Asked about a statement that he had said that the proper course to take with the public domain was to "divide ! up

## Statement Idiotic.

"So asinine a statement hardly merits a denial. Of course, I made no such statement. Such a thought could not be entertained by any normal intelligence. What I really think in regard to the public domain and the conservation of natural resources may be found in my official reports as commissioner of the general land office and in my present annual report, soon to be published. I have not only been consistently in the vanguard of conservative movement, but I have conservative movement, but I have sought to give it permanence along lines reasonably within the spirit of present law and to secure adequate additional

He made an equally emphatic denial of a statement that his firm is known as the Standard Oil legal advisory in Seat-

## All Rights Protected.

Mr. Ballinger also made response to charge that, in granting rights of way to Hill and Harriman railroads through the Deschutes canyon in Oregon, he had ren-The action in which a reversal of the decision of the Utah court was secured was known as the "Sharp case," the charge being that of conspiracy and restraint of trade, for putting out of business David J. Sharp, who formerly conducted a coal business in Upper Main street. Sharp advertised to sell coal at a 50-cent reduction and it was alleged that a conspiracy followed, by which he was prevented from getting any coal. The case resulted in the imposition of a fine of \$1000 on Everett Buckingham and \$3.000 each on James M. Moore, the Union Pacific railway, the Union Pacific Coal company and the Oregon Short Line Coal company and the Oregon Short Line Coal company.

The decision in the court of this state was given about a year ago.

# His first connection with the Sun dates back to 1877, when he became its art critic. In 1884 he was elected president of the Sun, and in 1900 purchased the interest of the estate of Charles A. Dana in the Sun Printing and Publishing association and became president A. Dana in the Sun Frincing and lishing association and became president of the association.

Deceased Succeeded Charles

A. Dana in Management of

New York Sun.

New York, Nov. 19 .- William F. Laf-

fan, publisher of the New York Sun,

died today at his home in Long Island,

following an operation for appendicitis performed on Monday.
William Laffan was the successor of

the late Charles A. Dana in the management of the New York Sun, and the publisher of that newspaper for the last twenty-five years. His home was in Lawrence, L. I.

Mr. Laffan was born in Dublin, Ireland, sixty-two years ago, and after completing his studies in Dublin university came to this country.

In 1870 he was made managing edi-tor of the San Francisco Bulletin, but

two years later removed to Baltimore to become editor and half owner of

the Daily Bulletin, subsequently acquir-ing full ownership of that paper. While in Baltimore he married the daughter of Judge Daniel Ratcliffe of Washing-

ton, D. C.

Mr. Laffan was recognized as an authority on wood engravings and oriental porcelain. In 1995 he directed the work of cataloguing the

Chinese porcelain in the collection of J. Pierpont Morgan, and later the Chinese porcelain in the Metropolitan museum of art, of which he was a

versity came to this country.

Startling Experience of the Pupils in One of the Public Schools in Denver.

Denver, November 19.-A woman teacher in the public schoools, whose name is withheld by the police and school authorities, became insane today while engaged in teaching her class, and suddenly began to disrobe in the presence of her scholars. Dr. Pearl B. Wheeler, public school nurse for the ity, happened to enter the room at the time and, notifying other teachers, the deranged young woman was taken to a hospital, where, this evening, it was reported her condition was improving. The reason assigned for the sudden derangement of the teacher was the recent death of a brother, with whom she came to Denver a few months ago in the hope the brother's impaired health would improve. Since the death of the Deputy Collector Vail Among the brother the young woman has given evidence of much mental suffering. Miss Eliza McGrew, the principal of the Webster school, where the incident occurred, said the young woman recently had displayed evidences of a nervous breakdown.

## INSPECTION TRIP.

President Robert S. Lovett Leaves

New York for the West. (Special to The Herald-Republican.) New York, November 19.-Robert S. Lovett, president and chairman of the Union and Southern Pacific railroads has left for the west, where he will spend about three weeks inspecting the Harriman properties. This will be Judge Lovett's first trip over the systems since his accession to the place of

## the late E. H. Harriman.

Among those dismissed is James F. Vail, cornerly deputy surveyor of the weighing division.

The collector states that since March 9 last, when he took office, he had removed from the service for irregularities from the weighing department 18 other officials, six of whom are now under indict-

# Will Rip Ever Wake Up?

Republican paper ever published in Sait Lake. The Herald-Republican has been setting a fast pace with its Sunday paper, just the issue of tomorrow will cellipse all previous efforts. The eight-

Herald-

# MAGAZINE AND

section will be full of good things. I

## A DAUGHTER OF ART

written by two of the most brilliant novelists of the day. The Herald-Republican has purchased the exclusive western rights for this fascinating story and you can't get it anywhere else. After the story is finished in The Herald-Republican it will be published in book form and it will cost you \$1.50 to read it then. you \$1.50 to read it then.

# OUR SHORT STORY

will contain "The Return of Hepburn," by Frederick Walworth Brown, a well written, interesting story, finely illustrated. There will be an illustrated humorous article on "The Great Thanksgiving Football Game"; also a story on the Thanksgiving proclamation of the President, with the latest photograph of President Taft, of the custodier of the proclamation of the story of the constant of th custodian of the proclamations, the book in which they are kept.

## FOR THE WOMEN

Puritan Thanksgiving Dinner," and the remainder of the Women's Home Page will be taken up with matters of value and interest to the women read-ers of The Herald-Republican. There

# TWO BIG THEATRE

with illustrations of the stars that will appear in Salt Lake next week, and what they are all going to do. The

# SOCIETY AND MUSIC

will contain all the society news worth reading in Salt Lake, as well as of the important communities of the state. As a pre-eminent musical city and state, Salt Lake and Utah will read this section with interest, and in ad-dition there will be all of the news of the day, more of it than anybody else prints, and better edited, and, to to

# TWO BIG SPORT PAGES Order your paper now. If you miss The Sunday Herald-Republican tomor-row you will miss the best Sunday pa-per issued in the intermountain coun-

Butte Theatrical Manager Skips Out

#### LITTLE CHILDREN FOUND LOCKED IN BLAZING HOME

Indiana Harbor, Ind. Nov. 19.—The screams of children who were locked in a blazing home caused neighbors to rush to Mrs. John Koran's residence here today, but when they had broken in the day, but when they had broken in the readle and her little brother was perhaps fatally burned.

The boy, 3½ years old, had been tied to the dorknob by his mother to prevent him from playing with matches. He did not get the matches, but fire feil from the stove.

John Koran's residence here todency last Saturday evening, is an embezzier, according to the statements of one of the proprietors of the Empire theatre. The exact amount of money secured by Quinn is not definitely known, but he got at least \$1,400.

A warrant has been issued for Quinn on a charge of grand larceny, and both the sheriff and city police are looking for him, but he has not yet been located.

John Koran's residence here todency last Saturday evening, is an embezzier, according to the statements of one of the proprietors of the Empire the United States against Chile to a specially constituted court of arbitration at The Hague.

The notification to Chile, which is looked upon here as an ultimatum, has been seized upon by the sensational press as a cause for public agitation. As a result the merchants are aiarmed lest the feeling aroused affect American imports adversely.

John Koran's residence here to denily last Saturday evening, is an embezzier, according to the statements of one of the proprietors of the Empire the United States against Chile to a specially constituted court of arbitration at The Hague.

The outification to Chile, which is looked upon by the sensational press as a cause for public agitation. As a result to money to the Bolivian government in exhaustic characteristic and the United States against Chile to a specially constituted court of arbitration at The Hague.

The outification to Chile, which is looked upon by the sensational press as a cause for public agitation. As a result of the court of arbitration at the United States against Chi The mother had gone shopping and locked the children in.

# The Sunday FIN LA

Unknown Desperado Killed at Garrett Ranch After the Boy Escaped.

Boise, Idaho, Nov. 19.—The unknown desperade who for twenty-four hours held captive seventeen-year-old Harry Garrett in an upstairs room of the Garrett ranch house, threatening death to the boy should an attempt to arrest him be made, was shot and killed this how had morning at daybreak after the boy had made his escape. Wearied by his long vigil, the Finn fell into a doze and his prisoner quickly selzed the opportunity

floor of the room below that in he had taken refuge followed. one shot was fired in return. Soon the man fell to the floor, but recovering himself he jumped from the window. A perfect volley of shots from members of the posse on the outside of the house was fired as he appeared at the window, and he fell, a dying man. the window, and he fell, a dying man. He lived for two hours, dying while being taken to Nampa. An examination showed that the body was riddled with bullets. The identity of the foreigner has not been ascertained. The Garrett boy states that his captor confessed to him that he was the man who shot and seriously wounded Officer Fleming at Nampa last Tuesday morning. Fleming will recover.

# HIS AUDITORS ENTHUSED

not be only worth seeing, but should be

able to fight."

President Taft aroused enthusiasm today by making this statement in an address before the Atlantic de p waterways
association convention. The President
expressed his interest in a proper growth
and declared Hampton Roads and Chesapeake Bay should be protected by an island fort. He had urged this method of
defense as secretary of war, he said, and
would continue to urge it as President.

Mr. Taft regarded the Norfolk navy
yard as probably the most important
place in the country and Hampton Roads
as the greatest point for a naval rendezvous.

Regarding waterways, President Taft reiterated his position with regard to waterways improvement and declared he would earnestly support any project which could prove its practicability and worth and which would redound to the general good.

## SEEN IN SALT LAKE.

With Company Money. Butte, Mont., November 19.-L.

Quinn, former manager of the Empire He was seen in Salt Lake Monday by

some Butte people, and also on a train apparently bound for Denver.

Pan-American Treaty Violated Four Bodies Recovered Yesterby the Nicaraguan Troops When They Invaded Costa Rican Territory in Advance.

#### SECRET CONFERENCE HELD IN WASHINGTON

Assistant Secretary of State Wives Whose Husbands Are American Ministers and Insurgents May Be Recognized

## REBELS HOLD THEIR OWN ONE MAN STILL HOPEFUL

Washington, Nov. 19 .- Brooding quiet settled today on the strained situation in which this government finds itself with Nicaragua. But if everything were quiet on the surface, there was plenty stirring beneath.

beneath.

A communication was received at the state department from the Nicaraguan legation, the purport of which was not divulged, and ministers from Guatemala and Costa Rica held a mysterious conference with Assistant Secretary Wilson.

A significant development of the day, inasmuch as it disclosed this government's determination not to interfere with the Nicaraguan revolutionists, was the reiterated announcement that the state department would not act to insure the safety of any American vessels that the safety of any American vessels that might be held up or seized by the insurrectionary war vessels now blockading government forces. The announcement was made as a re-sult of several inquiries by American

#### Violation of Treaty.

The deepest interest is apparent as to The deepest interest is apparent as to the conference between Assistant Secretary Wilson, Senor Calvo, minister from Costa Rica and Dr. Herrarta, minister from Guatemala. It is believed that the infraction of the existing pan-American treaty signed two years ago was the chief matter discussed. The violation was committed by General Toledo, in command of President Zelaya's forces, when he invaded Costa Rican territory in his advance on Greytown.

advance on Greytown.

In the threatened trouble between Nicaragua and Venezuela a short time ago, the United States stood ready to prevent the passage of belligerents across the neutral territory of Honduras. This is pointed out by diplomats as indicative of the gravity. e gravity of General Toledo's offen against the pan-American compact.

#### Hold Their Position.

revolutionists under General That revolutionists under General Chamorro are making preparations for the final decisive struggle within the next three or four days was announced to night by Senor Salvatore Grastrillo, representative here of the Nicaraguan provisional government. In the meantime he

## Revolutionists Rejoice.

made his escape. Wearied by his long vigil, the Finn fell into a doze and his prisoner quickly seized the opportunity to jump from a window.

Half a dozen shots startled the watchers, and a moment later the boy rushed from the direction of the house. The man attempted to kill the lad when he discovered what had transpired.

The Finnish interpreter called on the desperado to surrender, but he refused, and a fusillade of shots through the floor of the room below that in which

According to information brought into Bluefields by deserters, the troops of President Zelaya were suffering great hardships. General Chamorro of the revolutionary forces retains control of Greytown the dispatch adds town, the dispatch adds.

# Cannon's Parents Want Body. Harrisburg. Pa.. Nov. 19.—Daniel K. Cannon, father of Leroy Cannon, the young Pennsylvanian executed in Nicaragua, today asked the state department at Washington to obtain positive confirmation of the news of the young

"Mr. Cannon and I, if the boy is dead, will try to have the body sent here. We hope the government can help us to get President Taft Delivers Address Before Atlantic Deep Waterways

Association Convention.

Association Convention.

Association Convention.

Association Convention.

Association Convention.

Ars. Cannon said she had received no word from her son that he had taken part in any revolutionary uprising such as is contained in letters received here by school friends of the young man. These letters came from Honduras and stated that Cannon was in that republic in August and September, because of President Zelaya's enmity toward him.

day After the Fire Fighters Had Risked Their Lives in an Effort to Subdue Flames.

#### SIX DAYS SINCE THE AWFUL CATASTROPHE

Wilson Has Talk With South "Down" Remain at Home in Despair, Fully Convinced That All Missing Are Dead.

Cherry, Ill., Nov. 19 .- Science and desperation have greatly checked the fire that snuffed out 300 lives last Saturday in the St. Paul coal mine. Men braved today the fire-swept tunnels to bring the dead to the surface.

Charity has poured aid into homes of suffering survivors. But all of this could not subdue the grief of Cherry's inhabitants when the sight of the dead, lifted from the tomb, blasted their hopes that the men might be rescued alive.

It has been just six days since fire started in a bale of hay and swept the bread-winners of this community to their doom, and in all that time of anxiety only five bodies have been recovered, four today and one last night. Tomorrow it is expected that many more bodies will be recovered. More were found today, and explorers working deep into the second gallery were forced to flee, as they were about to bring them out, when falling earth and rock endangered the rescuers.

Tonight miners were put to work in the galieries replacing burned timbers and clearing obstructions which im-pede access into the coal veins for more than 250 feet from the main shaft, Be-yond this point fires still burn, and it will be some time before they can be

#### extinguished. Inspectors Satisfied.

Illinois inspectors who have had charge of the attempt to subdue the fire and to effect an entrance into the mine were satisfied tonight with the progress of the work. It was more successful than they had anticipated. All except three inspectors left their homes tonight.

"The entering of the mine and the fighting of the fire to a controllable point," said inspector James A. Taylor before his departure, "is gratifying to us. So soon as the galleries can be cleared and reinforced many more of the dead will be brought out. It was unsafe to venture near the bodies discovered late today."

Realization that their husbands are dead drove many women to their homes, where agents of charity were able for the first time to talk with them satisfactorily.

Cherry was the Mecca for thousands of visitors attracted by the opening of the mine. The military guard around the mine preserved perfect order.

Fire Fighting Dangerous.

## Fire Fighting Dangerous.

Obstacles that threatened lives of fire fighters attended the work of re-covering bodies. At one time men working in the second level were al-most cut off from escape by a sudden cavein of rock and earth. They had placed two bodies on a stretcher and cavein of rock and earth. They had placed two bodies on a stretcher and were ready to carry them to the cage when a shower of debris came down.

To the danger of heavy rocks falling was added that of crackling timbers, which fell in from all sides. The men were then 250 feet from the hoisting shaft. Further in they could see a great heap of bodies of men, boys and mules indiscriminately

Leaving behind them the two bodies which they had struggled hard to reach, the fire fighters rushed to the heisting shaft, where they were revived. They were quickly brought to man's death.

"We only know what we read in the newspapers, and hope Washington can tell us something," said the young man's mother.

The clearing away of debris delayed the exploration work almost all after-

## Bare Possibility.

"Is it possible that, after being buried for six days, some of the miners may still be found alive?" was a question revived today as the officials reached remote galleries. One old miner, who lost a son, declared he was still hopeful.

of President Zelaya's enmity toward him.

SAFE DYNAMITED.

Des Moines, Iowa, Nov. 19.—Two masked men dynamited the safe in the bank of Alleman, a small station termiles north of Des Moines, early today and obtained \$1,600 and escaped.

"Those entombed in the mines have kept themselves alive as long as thirty days," he said. "I believe some of these men were wise enough to get into one of the galleries and barricade themselves up with coal and earth, and thus shut out the gas and fire. In this way they could Continued on Page 2.

# ALSOP CLAIM TO THE HAGUE

Rumpus Is Over Guano Deposits Gained as Result of War With Bolivia.

Santiago, Chile, Nov. 19 .- The Chilean government today opened ne-

that country. The government contracted to return a portion of the loan from the receipts of customs at the port of

Calls, six of whom are now under indictinent.

In other branches of the service he has removed for cause 35 officials, making the total number of removals from the service since March 1, 62.

In other branches of the service he has removed for cause 35 officials, making the total number of removals from the service since March 1, 62.

In connection with the dropping of Deputy Surveyor vall, the collectors as the connection of the connection of the state department have not been officially advised of the receipts of customs at the port of Arica.

SETTLEMENT MADE.

Gould to become a member of the state department have not been officially advised of the receipts of customs at the port of Arica.

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